

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
MIDLAND/ODESSA DIVISION

UNITED STATES OF AMERICA,) Case No. 7:22-CR-00154(1)-DC
)
 Plaintiff,)
)
 vs.)
)
RAYMOND CHARLES JR.,)
)
 Defendant.) Wednesday, September 14, 2022
) 4:14 P.M.

TRANSCRIPT OF STATUS CONFERENCE
BEFORE THE HONORABLE RONALD C. GRIFFIN
UNITED STATES MAGISTRATE JUDGE

APPEARANCES:

For the Plaintiff: United States Attorney's Office
 BY: JOSEPH MAHONEY, ESQUIRE
 400 West Illinois Avenue, Suite 1200
 Midland, Texas 79701

For the Defendant: Office of the Federal Public
 Defender
 BY: ANTHONY COLTON, ESQUIRE
 200 East Wall Street, Room 110
 Midland, Texas 79701

Deputy Clerk: Monica Ramirez
 United States District Court
 200 East Wall Street, Room 222
 Midland, Texas 79701

Transcription Service By: Dipti Patel, CET-997
 Liberty Transcripts
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 Austin, Texas 78759
 (847) 848-4907
 www.libertytranscripts.com

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Midland, Texas - Wednesday, September 14, 2022

(4:14 p.m.)

P R O C E E D I N G S

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THE CLERK: The Court calls MO:22-CR-154, the United States of America versus Raymond Charles Jr.

MR. MAHONEY: Joseph Mahoney on behalf of the United States.

MR. COLTON: Anthony Colton for Mr. Charles.

THE COURT: All right. Good afternoon.

And under Rule 5(f), Counsel for the United States is ordered to comply with its disclosure obligation under Brady vs. Maryland. Failure to do so may result in the dismissal of charges, exclusion of evidence, adverse jury instructions, contempt proceedings, and sanctions.

And, Mr. Charles, we've already had an arraignment. And you've got a trial setting of October 3rd. So, and I know, Mr. Colton and I were talking, we have a number of cases this afternoon. We've been in here all afternoon. So Mr. Colton's had some other matters. So I know he's filed a motion to suppress in your case.

But let me get him to put this on the record. We didn't have it on the record. A while ago I just asked what was going to happen. Let him go ahead and make his record. The Government's going to also correct your name spelling. I'll get them to do that, too, in just a minute. And then

1 I'll kind of sort it out from there.

2 Go ahead, Mr. Colton.

3 MR. COLTON: Yes, Your Honor. We filed a motion to
4 suppress in Mr. Charles' case today.

5 THE COURT: Okay.

6 MR. COLTON: The reason that these take a little
7 longer sometimes is because the discovery kind of drags in and
8 we don't always have enough information to file a motion to
9 suppress --

10 THE COURT: Right.

11 MR. COLTON: -- you know, two weeks after the
12 indictment. And so that's what happened here.

13 THE COURT: Okay. So it's been filed. Obviously,
14 the Government will have time to respond to that. And then
15 Judge Counts will set it for a hearing or carry that, hear it
16 at trial or he'll do whatever he's going to do at that point.
17 But the Government's going to have some time to respond.

18 So here's what I want you to know, Mr. Charles, on
19 this. And we'll probably go over this same topic again in the
20 future. But so you've talked to Mr. Colton. You understand
21 what he's doing on your behalf filing that motion. He's
22 challenging the evidence in some respect. And I don't know
23 anything about your case other than what's in that indictment.
24 I mean, I probably did at one point, but I don't remember it.

25 So it's a felon in possession of a firearm charge.

1 I don't know the circumstances. But there's something about
2 that evidence that your lawyer's challenging on your behalf.
3 Now, the Government's going to have an opportunity to file a
4 responsive brief to that.

5 And then I'm not going to say guaranteed, but in all
6 likelihood, Judge Counts is going to have a hearing at some
7 point with you. And he'll hear some evidence and hear
8 arguments. And then he'll make a ruling.

9 You understand all that?

10 THE DEFENDANT: Yes, sir.

11 THE COURT: Okay. So here's the thing I want to
12 make sure you understand is that the case is set, and I think
13 really the motion to suppress is going to work as a kind of
14 like a continuance. But -- because he's going to have to rule
15 on that. But anyway, it's set for the 3rd right now, October
16 3rd.

17 There's a plea deadline of this -- it's this Friday,
18 right? Is that my plea deadline? It's this Friday is the
19 plea deadline.

20 MR. COLTON: I believe so, Your Honor.

21 THE COURT: That's significant in this respect. If
22 you had not filed the suppression motion and you wanted to
23 take advantage of the plea because you were guilty and you
24 pled, you would have the opportunity to receive acceptance of
25 responsibility points. Okay?

1 And then that, those acceptance points, I know Mr.
2 Colton's gone over this with you. It reduces, it reduces
3 under the sentencing guidelines where your range.

4 And so it could have a positive benefit on any sort
5 of sentence that you would receive by the district judge when
6 you're sentenced. Of course you could always forego that and
7 just go to trial. And if you did that and you were convicted,
8 you would have no points. There would be zero acceptance
9 points, and you would be sentenced wherever that falls.

10 You're in a little bit of a grey area in that the
11 way that we've been doing the suppressions is that it's filed,
12 and then depending on what the district judge does with that
13 suppression, if it's something that's granted and it's
14 something that if granted your entire case would go away, then
15 the case goes away.

16 But if it's something where he grants it and there's
17 still evidence that can come in that would support a guilty
18 finding, or if he just denies your challenge to the evidence,
19 your case would still be around on a trial docket. Okay?

20 And then what would happen is you would still -- we
21 would bring you back. I would bring you back once there's a
22 ruling on that suppression, assuming there's something to
23 bring back, there's still a case. Then we would talk about
24 you having -- you would still have an opportunity to receive
25 some acceptance points.

1 You just won't get as much as you would without
2 filing a motion. And the reason that is is because if the
3 Government has to respond and has to go argue and put on
4 things on the suppression, then you're not going to get --
5 they're not going to give you their point on acceptance. So
6 you might still get some acceptance points. You're just not
7 going to get the full opportunity that you would have
8 otherwise. That make sense?

9 THE DEFENDANT: Yes, sir.

10 THE COURT: Okay. So that's where we're at right
11 now. So I don't think unless Mr. Mahoney tells me otherwise,
12 or Mr. Colton, I don't think there's another reason to bring
13 you back this week. And I'll just wait and see what Judge
14 Counts does. He may just push this case over to the next
15 trial docket. And if he does, then everything will reset
16 anyway.

17 But you're not -- I'm telling you, I'm not going to
18 lose track. You're going to go on another spot on my docket
19 call summary and I won't lose track of you and these
20 acceptance points. The Government won't -- they'll remind me
21 that you're not going to get that point if they've got to go
22 through with that. Okay?

23 THE DEFENDANT: Okay.

24 THE COURT: I don't see a reason to come back. I
25 mean, unless y'all can think of something else. Mr. Mahoney?

1 MR. MAHONEY: Nothing from the Government, Judge.

2 THE COURT: Mr. Colton?

3 MR. COLTON: No, Your Honor.

4 THE COURT: So I'll just report to Judge Counts that
5 that motion to suppress was filed. The Government's got time
6 to respond, and then we'll see what he wants to do on the
7 trial setting. He may set you specially or something. I
8 don't know what he's going to do.

9 MR. COLTON: Yeah, well, I mean, and that's what he
10 did on the last case.

11 THE COURT: Yeah.

12 MR. COLTON: He just, he had the hearing and we went
13 on with the trial, so.

14 THE COURT: Yeah. And he may do that. I mean, I'm
15 saying all that. I've been here long enough to know I don't
16 know what he's going to do up there. I mean, he may roll you
17 to another docket. He may specially set you. He may hear
18 this thing the morning of your trial and then go on with your
19 trial. I don't know what he's going to do.

20 He's the district judge. That's his ball game up
21 there. Mine's down here. If you're not going to plea, I just
22 tell him you're coming on up. All right. I was trying to
23 think.

24 The other thing, though, that I want to make sure of
25 that I don't want you to lose sight of, and Mr. Mahoney's new,

1 but is that sometimes -- well, usually it's after the ruling,
2 right? You can have some sort of a stipulated bench trial --

3 MR. COLTON: Right.

4 THE COURT: -- to preserve appellate issues. And
5 then we just don't do the plea. I think the stipulated bench
6 trial goes faster than the plea colloquy anyway. But that's
7 an opportunity, too. But I'm getting ahead of myself. You
8 don't know what the ruling is going to be yet. So, but you've
9 done those and you're aware of them, so.

10 MR. COLTON: Yes, Your Honor.

11 THE COURT: All right. So I'm just going to say
12 you've got a trial setting. Until Judge Counts says that
13 trial setting is moved, just plan on October 3rd. And I don't
14 know what he's going to do. He may move it, but we'll see.

15 MR. MAHONEY: And then, Your Honor, just one
16 additional thing. The Government would ask to make an oral
17 motion to correct the name on the indictment so that Raymond
18 is spelled R-A-Y-M-O-N-D.

19 THE COURT: That motion is granted. And I've got
20 the corresponding order. Thanks for reminding me once again
21 on that. We corrected your name --

22 THE DEFENDANT: Thank you.

23 THE COURT: -- on the indictment, Mr. Charles.

24 All right. Is there anything else, Mr. Colton?

25 MR. COLTON: No, Your Honor.

1 THE COURT: Mr. Mahoney, anything else?

2 MR. MAHONEY: No, Your Honor.

3 THE COURT: All right. Mr. Charles, you're remanded
4 to the custody of the marshals. Thank you, sir.

5 (Proceedings adjourned at 4:23 p.m.)

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10 **C E R T I F I C A T E**

11 I, DIPTI PATEL, court-approved transcriber, certify that
12 the foregoing is a correct transcript from the official
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Date: April 11, 2023